

### § 3509.4-3

Attorney General should not be requested to institute proceedings in a court of competent jurisdiction to:

- (1) Cancel the lease;
- (2) Forfeit the interest so owned; or
- (3) Compel disposal of the interest so owned or controlled.

(c) If a lease is issued improperly, it shall be subject to administrative cancellation.

### § 3509.4-3 Bona fide purchasers.

(a) A lease or interest therein shall not be cancelled to the extent that such action adversely affects the title or interest of a bona fide purchaser even though such lease or interest, when held by a predecessor in title, may have been subject to cancellation. All purchasers shall be charged with constructive notice as to all pertinent regulations and all Bureau records pertaining to the lease and the lands covered by the lease.

(b) Prompt action shall be taken to dismiss, as a party to any proceedings with respect to a violation by a predecessor of any provisions of the Act, any person who shows the holding of an interest as a bona fide purchaser without having violated any provisions of the Act. No hearing shall be necessary upon such showing unless prima facie evidence is presented that the purchaser is not a bona fide purchaser. If, during any such proceeding, a party thereto files a waiver of his/her rights under the lease to drill or to assign his/her lease interests, or if such rights are suspended by order of the Secretary pending a decision, payments or rentals and the running of time against the term of the lease involved shall be suspended as of the first day of the month following the filing of the waiver or of the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver for suspension.

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AUTHORITY: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*); the Act of March 3, 1933, as amended (47 Stat. 1487); Sec. 10, Act of August 4, 1939 (43 U.S.C. 387); the Act of October 8, 1964 (16 U.S.C. 460n *et seq.*); the Act of November 8, 1965 (16 U.S.C. 460q *et seq.*); the Act of October 2, 1968 (16 U.S.C. 90c *et seq.*); the Act of October 27, 1972 (16 U.S.C. 460dd *et seq.*); the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm-2-460mm-4); the Independent Offices Appropriations Act (31 U.S.C. 9701).

SOURCE: 51 FR 15222, Apr. 22, 1986, unless otherwise noted.

### Subpart 3510—Phosphate Leasing: General

#### § 3510.0-3 Authority.

Authority for leasing phosphate is shown under § 3500.0-3 (a) and (c) of this title.

#### § 3510.1 Leasing procedures.

The regulations in this part provide the procedures for qualified applicants to obtain rights to develop deposits of

phosphate, including associated and related minerals, found on lands available for leasing. The regulations provide for this in the following manner:

(a) *Prospecting permits* allow the permittee to explore for deposits of phosphate.

(b) *Preference right leases* are issued to holders of prospecting permits who demonstrate the discovery of a valuable deposit of phosphate under the permit.

(c) *Exploration licenses* allow the licensee to explore known deposits of phosphate to obtain data but do not grant the licensee any preference or other right to a lease.

(d) *Competitive leases* are issued for known deposits of phosphate and allow the lessee to mine the deposit.

(e) *Fringe acreage leases* are issued noncompetitively for known deposits of phosphate on Federal lands adjacent to existing mines on non-Federal lands which can only be mined as part of the existing mining operation.

(f) *Lease modifications* are used to add known deposits of phosphate to an adjacent Federal lease which contains an existing mine provided the deposits can only be mined as part of the existing mining operation.

## § 3510.2 Other applicable regulations.

### § 3510.2-1 General leasing regulations.

Part 3500 of this title contains the general regulations governing the leasing of solid minerals other than coal and oil shale and supplements, as applicable, the regulations in this part. The part 3500 regulations include, but are not limited to, such matters as multiple mineral development, environmental review, other agency consent and consultation, and lands not available for leasing. Cross-reference to specific regulations in part 3500 is provided in this part as an aid to the reader and is not intended to limit the applicability of part 3500 of this title only to the cross-referenced regulations.

### § 3510.2-2 Special areas.

Part 3580 of this title contains regulations specific to certain national recreation areas and to certain lands patented to the State of California, and as applicable, supplements this part.

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Except where specific regulations in part 3580 of this title are applicable, the regulations in this part and part 3500 of this title shall govern the leasing of phosphate in those national recreation areas and those patented lands.

#### **§ 3510.3 Allowable acreage holdings.**

No person, company, association or corporation may hold at any particular time, directly or indirectly, more than 20,480 acres under prospecting permit and lease in the United States.

### **Subpart 3511—Lease Terms and Conditions**

#### **§ 3511.1 Applicability of lease terms and conditions.**

The lease terms and conditions set out under this section apply to all leases issued or readjusted under part 3510 of this title. Each lease shall be issued on a form approved by the Director and shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved. Each lease shall authorize, in accordance with its terms and conditions, the mining of phosphate, phosphate rock and associated or related minerals.

#### **§ 3511.2 Rental and royalty.**

##### **§ 3511.2-1 Rental.**

(a) Each lease shall provide for the payment of rental annually on or before the anniversary date of the lease. The rental for each acre or fraction thereof shall be at the rate of not less than 25 cents for the first lease year, 50 cents for the second and third lease years, and \$1 for each and every year thereafter. The annual rental payment shall not be less than \$20. The rental paid for any year shall be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

(b) If the annual rental is not timely remitted, the lessee shall be notified by the authorized officer that, unless payment is made within 30 days from receipt of such notification, action shall

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be taken to cancel the lease. (See § 3509.4-2)

(c) Remittances of rental shall be made in accordance with § 3503.1 of this title.

#### **§ 3511.2-2 Production royalty.**

All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the authorized officer in advance as provided under § 3503.2-1 of this title but not less than 5 per centum of the gross value of the output of phosphates or phosphate rock and associated or related minerals.

#### **§ 3511.3 Duration of lease.**

The lease shall be issued for an indeterminate period subject to the Secretary's right of reasonable readjustment of lease terms and conditions at the end of each 20-year period.

#### **§ 3511.4 Readjustment.**

(a) The terms and conditions of a lease are subject to reasonable readjustment at the end of each 20-year period following the effective date of the lease unless otherwise provided by law at the time of expiration of such period. Prior to the expiration of each 20-year period, the authorized officer shall transmit proposed readjusted terms and conditions to the lessee. If the authorized officer fails to transmit the proposed readjusted terms and conditions prior to the expiration of the 20-year period, the right to readjust the lease shall have been waived until the expiration of the next 20-year term.

(b) The lessee is deemed to have agreed to the readjusted terms and conditions unless within 60 days after receiving them, the lessee files an objection to the readjusted terms and conditions or relinquishes the lease. The authorized officer shall issue a decision responding to the objections, and if the response is adverse to the lessee, the decision shall grant the right of appeal under part 4 of this title. The effective date of the readjustment shall not be affected by the filing of objections or the filing of a notice of appeal.

(c) Except as provided in this paragraph, the readjusted terms and conditions shall be effective pending a response to the objections or the outcome of the appeal provided for in paragraph (b) of this section unless the authorized officer provides otherwise. Upon the filing of an objection or appeal, the obligation to pay any increased readjusted royalties, minimum royalties and rentals shall be suspended pending the outcome of the objection or appeal. However, any such increased royalties, minimum royalties and rentals shall accrue during the pendency of the objection or appeal, commencing with the effective date of the readjustment. If the increased royalties, minimum royalties and rentals are sustained by the decision on the objection or on appeal, the accrued balance, plus interests at the rate specified for late payment by the Service shall be payable (See part 3590). Pending the decision on the objection or the appeal, the royalties, minimum royalties and rentals shall be payable as specified by the lease terms and conditions in effect prior to the end of the 20-year period.

#### **§ 3511.5 Use of other minerals.**

Any phosphate lease issued pursuant to this subpart shall provide that the lessee may use deposits of silica, limestone or other rock on the leased lands in the processing or refining of the phosphates, phosphate rock and associated or related minerals mined from the leased lands upon payment of royalty as set forth in the royalty schedule attached to the lease.

#### **§ 3511.6 Bonds.**

Prior to issuance of a lease, the applicant shall furnish a bond in an amount to be determined by the authorized officer, but not less than \$5,000. (See subpart 3504)

#### **§ 3511.7 Special stipulations.**

To insure adequate utilization and protection of the lands and their resources, leases shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau

jurisdiction as described in § 3500.9 of this title. (See also part 3580)

#### **§ 3511.8 Other applicable regulations.**

Leases issued under this part shall also be subject to the conditions set forth in other regulations, including, but not limited to, the following:

(a) Minimum annual production and minimum royalty are covered by § 3503.2-2 of this title.

(b) Suspension of operations and production and suspension of operations are covered by § 3503.3 of this title.

(c) Assignments and subleases are covered by subpart 3506 of this title.

(d) Cancellation and relinquishment are covered by subpart 3509 of this title.

(e) Exploration and mining are covered by part 3590 of this title.

(f) Royalty management is covered by 30 CFR Chapter II, Subchapter A.

### **Subpart 3512—Phosphate Prospecting Permits**

#### **§ 3512.1 Areas subject to prospecting.**

A prospecting permit may be issued for any unclaimed, undeveloped area of available public domain or acquired lands subject to leasing where prospecting or exploratory work is necessary to determine the existence or workability of deposits of phosphate. Discovery of a valuable deposit of phosphate within the term of the permit entitles the permittee to a preference right lease.

#### **§ 3512.2 Rights conferred by issuance of prospecting permits.**

A permit shall grant the permittee the exclusive right to prospect on and explore the lands to determine the existence of a valuable deposit of phosphate in accordance with the terms and conditions of the permit. The permittee may remove only such material as is necessary to demonstrate the existence of a valuable mineral deposit.

#### **§ 3512.3 Application for prospecting permit.**

##### **§ 3512.3-1 Filing requirements.**

(a) An application shall be filed on a form approved by the Director or an exact reproduction of such form.

(b) An application shall be filed in triplicate with the proper BLM office.

(c) The application shall be accompanied by a nonrefundable filing fee of \$25, and rental for the first year at the rate of 50 cents per acre, or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest subdivision. The rental payment shall not be less than \$20.

**§ 3512.3-2 Contents of applications.**

Each application shall be type-written, or printed plainly in ink; manually signed in ink and dated by the applicant or applicant's duly authorized attorney-in-fact, and shall contain the following:

- (a) The name and address of the applicant;
- (b) A statement of the applicant's qualifications and holdings. (See subpart 3502); and
- (c) A complete and accurate land description in compliance with subpart 3501 of this title. The application shall not include more than 2,560 acres in a reasonably compact form.

**§ 3512.3-3 Exploration plans.**

After an initial review and clearance of the application, but prior to the issuance of the prospecting permit, the authorized officer shall require the applicant to file an exploration plan in triplicate, reasonably designed to determine the existence or workability of the deposit. The exploration plan shall, insofar as possible, include the following:

- (a) The names, addresses and telephone numbers of persons responsible for operations under the plan and to whom notices and orders are to be delivered;
- (b) A brief description, including maps, of geologic, water, vegetation and other physical factors, and the distribution, abundance and habitat of fish and wildlife, particularly threatened and endangered species, that may be affected by the proposed operation within the area where exploration is to be conducted, and the present land use within and adjacent to the area;

(c) A narrative description showing:

- (1) The method of exploration and types of equipment to be used;
- (2) The measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat and other natural resources and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations;
- (3) The method for plugging drill holes; and
- (4) The measures to be taken for surface reclamation, which shall include as appropriate:
  - (i) A reclamation schedule;
  - (ii) The method of grading, back-filling, soil stabilization, compacting and contouring;
  - (iii) The method of soil preparation and fertilizer application;
  - (iv) The type and mixture of shrubs, trees, grasses, forbs or other vegetation to be planted; and
  - (v) The method of planting, including approximate quantity and spacing.
- (d) The estimated timetable for each phase of the work and for final completion of the program;
- (e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features, and the proposed location of drill holes, trenches and roads; and
- (f) Such other data as may be required by the authorized officer.

[51 FR 15213, Apr. 22, 1986; 51 FR 25204, July 11, 1986]

**§ 3512.3-4 Rejection of application.**

Any application for a prospecting permit which does not comply with the requirements of this subpart shall be rejected. If the applicant files a new application for the same lands within 30 days of receipt of the rejection, the nonrefundable filing fee and rental payment submitted with the original application shall be applied to the new application, provided the serial number of the original application is shown on the new application. If a new application is not filed within the 30-day period, the advance rental shall be refunded. Priority for the permit shall be

established as of the date the corrected application is filed.

#### **§ 3512.4 Determination of priorities.**

##### **§ 3512.4-1 Regular filings.**

Priority of application shall be determined in accordance with the time of filing.

##### **§ 3512.4-2 Simultaneous filings.**

Where more than 1 application is filed at the same time for the same lands, priority shall be determined in accordance with § 1821.2-3 of this title.

##### **§ 3512.5 Amendment to application.**

An amendment to an application for a prospecting permit to include additional lands shall receive priority for such additional lands from the date of the filing of the amended application. The amended application shall be accompanied by the required advance rental. No additional filing fees are required.

##### **§ 3512.6 Withdrawal of application.**

An application for permit may be withdrawn in whole or in part before the permit is signed on behalf of the United States. Upon acceptance of the withdrawal, the advance rental submitted with the application shall be refunded.

##### **§ 3512.7 Permit bonds.**

Prior to issuance of the permit, the applicant shall furnish a bond in an amount determined by the authorized officer, but not less than \$1,000. (See subpart 3504)

#### **§ 3512.8 Terms and conditions of permit.**

##### **§ 3512.8-1 Duration of permit.**

Prospecting permits are issued for an initial term of 2 years, and may be extended for an additional period not to exceed 4 years as provided in § 3512.9 of this title. No exploration activities other than those approved as part of an existing exploration plan shall be conducted following expiration of the initial term unless and until the permit has been extended by the authorized officer.

##### **§ 3512.8-2 Dating of permits.**

The permit shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved.

##### **§ 3512.8-3 Annual rental.**

Rental at the rate of 50 cents per acre or fraction thereof shall be paid annually on or before the anniversary date of the permit. The rental payment shall not be less than \$20.

##### **§ 3512.8-4 Special stipulations.**

To insure adequate protection of the lands and their resources, permits shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title. (See part 3580)

#### **§ 3512.9 Prospecting permit extensions.**

##### **§ 3512.9-1 Conditions for, and duration of, extensions.**

A permit may be extended for a maximum of 4 years at the discretion of the authorized officer provided that:

(a) The permittee has been unable, with reasonable diligence, to determine the existence or workability of valuable deposits covered by the permit and desires to continue the prospecting or exploration program. Reasonable diligence means that, in the opinion of the authorized officer, the permittee has drilled a sufficient number of core holes on the permit area or performed other comparable prospecting to explore the permit area within the time allowed; or

(b) The permittee's failure to perform diligent prospecting activities was due to conditions beyond his/her control.

##### **§ 3512.9-2 Application for extension:**

(a) Filing requirements.

(1) No specific application form is required.

(2) Application for extension shall be filed in the proper BLM office at least 90 days prior to expiration of the permit.

(3) Applications for extension shall be accompanied by a nonrefundable filing fee of \$25, and advance rental of 50 cents per acre, or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than \$20.

(b) The application for extension shall:

(1) Demonstrate that the permittee has met the conditions for extension set out in § 3512.9-1 of this title;

(2) Demonstrate the permittee's diligent prospecting activities; and

(3) Show how much additional time is necessary to complete prospecting work.

**§ 3512.9-3 Effective date.**

The permit extension shall become effective as of the date of approval.

**Subpart 3513—Preference Right Lease**

**§ 3513.1 Application for preference right lease.**

**§ 3513.1-1 Filing requirements.**

(a) No specific application form is required.

(b) An application shall be filed in triplicate with the proper BLM office no later than 60 days after the prospecting permit expires.

(c) The application shall be accompanied by the first year's rental at the rate of 25 cents per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than \$20. (See subpart 3503)

**§ 3513.1-2 Contents of application.**

(a) The application shall contain a statement of qualification and holdings in compliance with subpart 3502 of this title.

(b) The application shall contain a complete and accurate description of the lands in accordance with § 3501.1 of this title. The lands shall have been included in the prospecting permit and shall not exceed 2,560 acres.

(c) The application shall be accompanied by a map(s) which shows utility systems, the location of any proposed development or mining operations and

facilities incidental thereto, including the approximate locations and the extent of the areas to be used for pits, overburden and tailings, and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto.

(d) The application shall include a narrative statement setting forth:

(1) The anticipated scope, method and schedule of development operations, including the types of equipment to be used;

(2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to be followed; and

(3) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-federal lands.

**§ 3513.2 Review of application.**

**§ 3513.2-1 Preference right determination.**

The authorized officer shall determine whether the permittee has discovered a valuable deposit of phosphate. The determination shall be based on the data furnished to the authorized officer by the permittee as required by part 3590 of this title during the life of the permit and supplemental data submitted at the request of the authorized officer to determine the extent and character of the deposit, the anticipated mining and processing methods, the anticipated location, kind and extent of necessary surface disturbance and measures to be taken to reclaim that disturbance.

**§ 3513.2-2 Surface management agency.**

The surface management agency, if other than the Bureau, shall review the application for preference right lease in accordance with § 3500.9 and part 3580 of this title, as applicable. The appropriate surface management agency may request supplemental data regarding surface disturbance and reclamation if not otherwise submitted under § 3513.1-2 of this title.

**§ 3513.3 Issuance of lease.**

The authorized officer shall issue a lease to the holder of a prospecting permit who shows that, within the term of the permit, a valuable deposit of phosphate was discovered.

**§ 3513.4 Rejection of application.**

(a) The authorized officer shall reject an application for a preference right lease if the authorized officer determines:

- (1) That the applicant did not discover a valuable deposit of phosphate;
- (2) The applicant did not submit in a timely manner requested information; or

(3) The applicant did not otherwise comply with the requirements of this subpart.

(b) On alleging in an application facts sufficient to show entitlement to a lease, an applicant shall have a right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals.

(c) At the hearing, the lease applicant shall have both the burden of going forward and the burden of proof by a preponderance of the evidence that a valuable deposit of phosphate was discovered.

**Subpart 3514—Exploration License****§ 3514.0-3 Authority.**

Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)).

**§ 3514.1 Exploration license.**

Private parties, jointly or severally, may apply for exploration licenses to explore known, unleased phosphate deposits to obtain geologic, environmental and other pertinent data concerning such deposits.

**§ 3514.2 Regulations applicable.**

Except as otherwise specifically provided in this subpart, the regulations pertaining to land use authorizations under part 2920 of this title shall govern the issuance of exploration licenses.

**§ 3514.3 Exploration plan.**

All applications for exploration licenses shall include an exploration plan which is in full compliance with § 3512.3-3 of this title. The exploration plan, as approved, shall be attached to, and made a part of, the license.

**§ 3514.4 Notice of exploration.**

Applicants for exploration licenses shall be required to publish a Notice of Exploration inviting other parties to participate in exploration under the license on a pro rata cost sharing basis.

**§ 3514.4-1 Contents of notice.**

The Notice of Exploration prepared by the authorized officer and furnished to the applicant shall contain:

- (a) The name and address of the applicant;
- (b) A description of the lands;
- (c) The address of the Bureau office where the exploration plan shall be available for inspection; and
- (d) An invitation to the public to participate in the exploration under the license.

**§ 3514.4-2 Publication and posting of notice.**

(a) The applicant shall publish the Notice of Exploration once a week for 3 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands are located.

(b) The authorized officer shall post the notice in the proper BLM office for 30 days.

**§ 3514.4-3 Notice of participation.**

Any person who seeks to participate in the exploration program shall notify the authorized officer and the applicant in writing within 30 days after posting.

**§ 3514.4-4 Decision on plan and participation.**

The authorized officer may issue the license naming participants and acreage covered, establishing core hole spacing and resolving any other issue necessary to minimize surface disturbance and inconsistencies between proposed exploration plans.



**§ 3514.5 Submission of data.**

The licensee shall furnish the authorized officer copies of all data obtained during exploration. All data shall be considered confidential and not made public until the areas involved have been leased or until the authorized officer determines that the data are not exempt from disclosure under the Freedom of Information Act, whichever occurs first.

**§ 3514.6 Modification of exploration plan.**

Upon application therefor, a modification of the exploration plan may be approved by the authorized officer.

**Subpart 3515—Competitive Leasing**

**§ 3515.1 Lands subject only to competitive leasing.**

Lands available for leasing where prospecting or exploratory work is unnecessary to determine the existence or workability of a valuable phosphate deposit may be leased only through competitive sale to the qualified bidder who offers the highest acceptable bonus bid, except as provided in subparts 3508 and 3516 of this title. A competitive lease sale may be initiated either through an expression of interest or on Bureau motion.

**§ 3515.2 Surface management agency.**

Prior to competitive lease offering, the surface management agency shall be consulted in accordance with § 3500.9 and part 3580 of this title, as applicable.

**§ 3515.3 Sale procedures.**

**§ 3515.3-1 Publication and posting of notice.**

Prior to a lease offering, the authorized officer shall publish a notice of lease sale for at least 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. The notice of lease sale shall be posted for 30 days in the public room of the proper BLM office.

**§ 3515.3-2 Contents of notice.**

The lease sale notice shall include:

- (a) The time and place of sale;
- (b) The bidding method;
- (c) A description of the tract being offered;
- (d) A description of the phosphate deposit being offered;
- (e) The minimum bid to be considered; and
- (f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

**§ 3515.3-3 Detailed statement.**

The authorized officer shall also prepare and make available a detailed statement of sale containing:

- (a) The proposed lease on a form approved by the Director with terms and conditions, including the rental, royalty rates, bond amount, and special stipulations for the particular tract;
- (b) An explanation of the manner in which bids may be submitted;
- (c) A notice that each bid shall be accompanied by the bidder's qualifications (See part 3502) and one-fifth of the amount bid;
- (d) A notice that the successful bidder(s) shall be required, prior to lease issuance, to pay their proportionate share of the total cost of the publication of the sale notice;
- (e) A warning to all bidders concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;
- (f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder if the successful bidder fails to obtain the lease for any reason; and
- (g) Any other information deemed appropriate.

**§ 3515.4 Bid opening.**

All bids shall be opened and announced at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. A bid may be withdrawn or modified prior to the time specified in the notice of sale.

**§ 3515.5 Award of lease.**

After the authorized officer has determined that the highest qualified bid meets or exceeds fair market value, copies of the lease on the form attached to the detailed statement shall be sent to the successful bidder who shall, within a specified time, sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs and furnish the required lease bond.

**§ 3515.6 Rejection of bid.**

(a) If the high bid is rejected for failure of the successful bidder to sign the lease form and pay the balance of the bonus bid, or otherwise comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited to the United States.

(b) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the authorized officer shall reject the bid and the deposit submitted with the bid shall be returned.

### Subpart 3516—Noncompetitive Leasing: Fringe Acreage Leases and Lease Modifications

**§ 3516.1 Lands subject to lease.**

Lands available for leasing which are known to contain a phosphate deposit that extends from an adjoining Federal lease or from privately held lands may be leased noncompetitively either by a issuance of a new lease for these lands or by adding such lands to an existing Federal lease.

**§ 3516.2 Special requirements.**

Before a fringe acreage lease may be issued or a lease modified under this subpart, the authorized officer shall determine the following:

(a) The lands are contiguous to an existing Federal lease or to non-federal lands owned or controlled by the applicant;

(b)(1) The new lease for the fringe acreage is not in excess of 2,560 acres; or

(2) The acreage of the modified lease, including additional lands, is not in excess of 2,560 acres;

(c) The mineral deposit is not in an area of competitive interest to holders of other active phosphate mining units in the area;

(d) The lands applied for lack sufficient reserves of the mineral resource to warrant independent development; and

(e) Leasing the lands will result in conservation of natural resources and will provide for economical and efficient recovery as part of a mining unit.

**§ 3516.3 Filing requirements.**

(a) An application shall be filed in triplicate with the proper BLM office. No specific application form is required.

(b) The application shall be accompanied by a nonrefundable filing fee of \$25, and an advance rental payment of 25 cents per acre or fraction thereof for a new lease or at the rental rate set forth in the base lease for a modification made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than \$20.

(c) The application shall:

(1) Make reference to the serial number of the lease if the lands adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the lands desired;

(3) Include a showing that a phosphate deposit extends from the applicant's adjoining lease or from private lands owned or controlled by the applicant; and

(4) Include proof of ownership or control of the mineral deposit in the adjoining lands if not under a Federal lease.

**§ 3516.4 Surface management agency.**

The surface management agency, if other than the Bureau, shall be consulted in accordance with § 3500.9 and part 3580 of this title, as applicable.

**§ 3516.5 Payment of bonus.**

Prior to the issuance of a new lease or a modification of an existing lease, the applicant shall be required to pay a bonus in an amount determined by the

## § 3516.6

authorized officer based on an appraisal. In no event, shall such payment be less than \$1 per acre or fraction thereof.

### § 3516.6 Terms and conditions of lease.

New leases shall be issued subject to the terms and conditions set out under subpart 3511 of this title. The terms and conditions of modified leases shall be the same as in the existing leases.

## Subpart 3517—Use Permits

### § 3517.1 Use permits.

A lessee or permittee may be granted a right to use the surface of unappropriated and unentered public lands, not exceeding 80 acres, not included within the boundaries of a national forest if necessary for the proper extraction, treatment or removal of the mineral deposits. This provision is not applicable to National Forest System lands.

#### § 3517.1-1 Applications.

Applications for permits to use additional lands shall be filed in triplicate in the proper BLM office. Each application shall be accompanied by a non-refundable \$25 filing fee and the first year's rental. The rental payment shall not be less than \$20.

#### § 3517.1-2 Rental.

(a) The annual rental charge for use of such lands shall not be less than \$1 an acre or fraction thereof. Payment of the rental shall be made on or before the anniversary date of the permit and also shall be required on all use permits issued prior to the effective date of this section.

(b) Any use permit shall terminate if the permittee or lessee fails to pay the rental within 30 days after service of written notice thereof by the authorized officer.

#### § 3517.1-3 Additional requirements.

Applications shall set forth the specific reasons why the permittee or lessee needs any additional lands for the use named, describe the lands desired in accordance with subpart 3501 of this title and also set forth the reasons why the lands are desirable and adapted to the use named, either in point of loca-

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tion, topography or otherwise, and shall assure that they are unoccupied and unappropriated. The application shall also contain an agreement to pay the annual charge prescribed in the permit.

### § 3517.2 Approval.

A use permit shall be issued on a form approved by the Director and dated as of the first day of the month after its issuance unless the applicant requests, in writing, that it be dated the first day of the month of issuance.

## PART 3520—SODIUM

### Subpart 3520—Sodium Leasing: General

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3521.2-1 Rental.

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### Subpart 3523—Preference Right Lease

3523.1 Application for preference right lease.

3523.1-1 Filing requirements.